

# 2024 QAP Comments

## Connelly Development, LLC

### QAP COMMENTS

#### Proposed Timeline:

1. Preliminary Applications Due: 12/11/23 - 12/15/23  
As long as the list of checklist items to provide for the preliminary application is limited, as it has been in years past, and the checklist provided as soon as possible, the timing should not be an issue even though it is a week before Christmas.
2. Preliminary Scores Released: 1/8/24  
Suggest moving this date out one week to 1/15/24 to allow sufficient time to review and post preliminary scores since the current proposed date is only 11-12 days from the application submission deadline. This needs to be a firm posting date as third-party reports have to be ordered and acquired before full applications are due.
3. Full Applications Due: 3/25/24 - 3/29/24  
Suggest moving this date to 4/8/24 - 4/12/24. Depending on weather conditions (typically rainy during winter months) the environmental and geotechnical reports could be delayed as there is drilling involved to complete these reports and rain delays the necessary drilling needing to be done. In addition, should a Phase I environmental report come back indicating that a Phase II environmental report needs to be completed this would be a short timeframe to get a Phase II completed by the date full applications are due.

#### Applicant Qualifications:

1. Applications must identify all members of the Development Team, which shall consist of the following:

- Proposed Owner and its Principals
- Developer and its Principals

For purposes of this section, Principals include any entity or individual that holds a majority ownership interest in the entity that has material control over the party identified. If the controlling entity includes a nonprofit entity, then Principals include all members making up such controlling entity...

The word "majority" needs to be eliminated. This allows "dealmaking" among different principals in order to circumvent the credit cap per development team members.

#### Mandatory Site Requirements:

1. Developments located within 1 mile of a 2021 or 2022 awarded new construction development posted on the Authority's Proposed & Existing LIHTC and Tax-Exempt Bond Developments List.
  - a) Keep requirement in place for all counties allowing proposed developments to move forward before adding another development in close proximity. We don't need to oversaturate markets or draw the ire of City/County Officials or neighborhoods by putting developments in the same area year after year. The urban areas were overwhelmed with bond deals in the past two years that need to move forward and start leasing before adding more large developments to the same areas.

~~Deleted- the 1-mile requirement so now you can be right next door to one just funded. This is a mistake and will cause an oversaturation in many market areas as well as concentrate affordable~~

housing in the same areas which several municipalities already have and/or are creating policies to stop this type of concentration.

- b) It is crucial that SC Housing keep the Proposed & Existing LIHTC and Tax-Exempt Bond Developments List updated so that the development community knows if developments previously funded have fallen out and are not moving forward.

Added- For distance to detrimental items like railroads, airports, hog farms, sewage plants, junkyards, bulk storage tanks, adult video entertainments clubs and industrial facilities- They added they will waive any of these disqualifications based on the presence of market rate residential in the area. This change needs to be eliminated, just because market rate units are in these areas doesn't make it an ideal place to have units.

Revised- Any site listed on the National Priority List under the Comprehensive Environmental Response, Compensation, and Liability Act or that requires the execution of voluntary or involuntary cleanup agreements, with Department of Health and Environmental Control or overseeing regulatory authority or other third-party organizations as noted in a Phase II environmental assessment report, (Unless the site has been approved by the Authority based on the following conditions: (i) determined appropriate for multifamily housing use by Department of Health an Environmental Control or the overseeing regulatory authority and (ii) be adequately mitigated). ~~unless fully completed~~.

This language needs to be changed as follows:

Any site listed on the National Priority List under the Comprehensive Environmental Response Compensation and Liability Act or that requires the execution of voluntary or involuntary cleanup agreements with the Department of Health and Environmental Control as noted in a Phase II environmental assessment report, unless the site has been determined appropriate for residential use based on DHEC standards, and can be adequately mitigated. A mitigation plan must be submitted with the application, complete with an accurate estimate of costs and included in the development budget..

#### **Financial Underwriting:**

1. Permanent Financing: Interest rates are based on a survey. These rates should be published with the final QAP and the authority needs to reserve the right to adjust to meet market changes.
2. Syndication Information: Put a floor price for both federal and state credits in the QAP. Suggest having 82 cents as a floor for federal credits and 50 cents for state credits. This needs to be published with the release of the final QAP so developers know what they can use when they start looking at sites and options. The authority needs to reserve the right to adjust if market conditions change prior to application deadline.

#### **APPENDIX C-1 - 9% TAX CREDITS**

Added- The limitations in this section do not include award(s) made under Sections III(B)(4) and (5). If the selection criteria would result in exceeding these amounts across set-asides, the Authority will make awards in the order listed in Section III(B). The Authority may exceed these limits in in the event of inadequate demand among eligible applications. If you review the sections referenced it seems to indicate that the DOT and Innovation Set-Aside do not have to adhere to the requirements for award limitations. If that is the case then it would mean these two set-asides do not have to adhere to the award amount limitations either to this would allow a developer to have 3 awards or 4 if the same developer got the award for DOT and Innovation. This adds an unfair advantage in the LIHTC program for this specific cause and this should be eliminated.

1. County Groups: Leave County Group A and Group B as stated for 2024 and revisit in 2025. Deleted Anderson, Georgetown, Jasper, Lancaster from Group A and moved to Group B Counties  
There should not be a change in this criteria as this changes scoring of applications that would have submitted in 2023.
2. Set-Asides and Nonprofit Set-Aside:  
Preference is being given to the Innovation and DOT Set-asides. These two set-asides are being funded first with an unlimited amount of credits to be provided to the Innovation project and up to \$3 million to the DOT project. Any remaining credits will then be divided up for the other three set-asides. In addition, the Innovation set-aside doesn't have to score to be funded. This is an unfair advantage over other counties and areas in SC.
  - a) Eliminate the Innovation Set-Aside and allocate the percentage of funding to the Rehab Set-Aside. Since the Authority no longer allows Qualified Contracts and there are many developments reaching the end of the 15-year compliance period there needs to be some additional funding for rehabilitation developments. Still in and now doesn't have to meet scoring and a first priority funding along with DOT. Innovation should not be a set aside. Innovation has never been utilized before and now doesn't have to score against other deals in SC?
3. Maximum LIHTCs Per Unit: Establish a credit per unit cap as part of the initial QAP as developers need to determine if developments are financially feasible early on without having to wait for a survey to be completed 30-60 days before full applications are due. Suggesting a cap of \$27,000 per unit. This does not need to be based on a survey. The authority needs to put this out there with the final QAP so that developers understand on the front end. If Urban areas like Charleston are more expensive and exceed this cap then authority needs to allow for the municipality to provide funding to cover this gap.
4. Land Donation or ground lease: If a local government, school district, or entity who received the property from the local government, owns the property or real estate by the application deadline... "entity" was added and it is too broad of a term and needs to be defined. There may be some entities or related entities that "received" ie purchased the property and donated it to the development but they may be related to or a part of the development team.
5. Affordability:
  - b) There is a conflict with the Restrictive Covenant language between maintaining the minimum set-aside election for points and unit targeting at 20%. Language in the Support Housing Section (C1-12) states that for a period of 90 days after the initial rent-up period begins the owner will establish a preferential leasing opportunity for referrals and thereafter will maintain a separate waiting list. We asked for clarification on this issue as follows: "Once the development begins lease-up we have to keep the 20% targeted units open and available only to those tenants meeting the 20% income limit. After the 90 days if we have not rented all of the 20% units and we do not have any other potential 20% income tenants from service providers to rent the targeted units to then we can rent to other income eligible tenants at or below 60% with the understanding that a 20% income waiting list will be maintained and utilized and that the next available vacant unit would be rented to a 20% tenant first if one can be found but again if one is not found then the vacant unit could be rented to another eligible tenant at a higher income." SC Housing responded that the above was correct. However, the Restrictive Covenant language is not written this way. The current language in the Restrictive Covenant results in not being able to use the next available unit rule and will result in 20% units sitting vacant if tenants are not found to occupy the units. Not changed and is a very important issue.
6. Affordable Housing Shortage-  
Need clarification as to whether they are counting 2023 as there was not a funding cycle. They need to keep the years in for clarification.

7. Leveraging: Interest rate for soft funding should increase from 2% to 3-4% based on current market conditions. **All leveraged funds have to be loans. Waived Fees has been eliminated.**
8. Supportive Housing: **No changes made to this section**
  - a) Lower the 10% of total units targeting 20% AMI to 5% of the total units targeting 20% AMI.
  - b) The 20% units are basically free units as the rents generated do not cover the operating costs for the unit. The other units in the development (50% and 60%) now have rents set at or close to the maximum rent limits in order to cover the operating costs of having 20% units.
  - c) Consider increasing 20% AMI units to 30% AMI units.
  - d) Units at this low income and rent targeting levels need rental subsidy to cover operations. Perhaps using the National HTF for these units is a viable option.
9. Tie Breaker Criteria:
  - a) Lowest total development cost per heated square feet is a race to the bottom. If you want to keep the costs real and ensure developers are not playing games with costs this criterion needs to be eliminated. **Deleted this and added "the application with the most amount of funding eligible for points under Section IV(G) which is leveraged funding and the jobs score. This is already being used as a scoring mechanism earlier, it should not be a tie breaker also.**
  - b) Suggest adding- development with costs closest to the average cost. **Did not add, this needs to be added and moved to the first tie breaker since the criteria of "the application with the most amount of funding eligible for points under Section IV(G)" already has an impact on the competition.**
10. Evaluation of Rehabilitation Applications: Suggest adding the following statement which should apply to 9%, 4% and TEB application submissions- Developments representing total rehabilitation costs at or above 50% of the value of the development are not eligible as a rehabilitation development. Developments with rehabilitation costs at this level will be considered and evaluated as a new construction development. **Did not change**

#### **APPENDIX C-2 – TAX EXEMPT BONDS**

1. The Authority should impose a limit on the number of applications any one developer can submit for TEB bond funding. **We suggest a limit of two (2) TEB application submissions per TEB funding cycle. While the authority is proposing to limit awards they should also limit the number of applications per developer team member to 3. This will prevent developers from making numerous applications that they know don't score as well as their top 3 and this would alleviate staff from having to process applications that have no chance of getting an award.**
2. Ranking: **Nothing changed in this section**
  - a) **All** existing state tax credit scoring criteria needs to be deleted as it:
    - i. Creates a race to the bottom for costs so you will not get real cost numbers;
    - ii. Will result in huge units being developed; and
    - iii. Create development with higher bedroom unit counts such as 3-, 4- and 5-bedroom units.
  - b) Suggested new scoring criteria:
    - i. Distance to services: Group A counties- 2 miles and Group B Counties- 3 miles.
    - ii. Number of jobs paying between \$1,251 and \$3,333 per month in a two-mile radius for Group A counties and a three-mile radius for Group B counties.

#### **APPENDIX C-3- STATE LIHTC**

1. Ranking: **No changes made to this section**

- a) **All** existing state tax credit scoring criteria needs to be deleted as it:
  - i. Creates a race to the bottom for costs so you will not get real cost numbers;
  - ii. Will result in huge units being developed; and
  - iii. Create development with higher bedroom unit counts such as 3-, 4- and 5-bedroom units.
- b) Suggested new scoring criteria:
  - i. Distance to services: Group A counties- 2 miles and Group B Counties- 3 miles.
  - ii. Number of jobs paying between \$1,251 and \$3,333 per month in a two-mile radius for Group A counties and a three-mile radius for Group B counties.

## **APPENDIX E – LIHTC MANUAL**

1. Progress Monitoring: Notification was sent out stating that Compliance Monitoring staff will enter the development information into SCHousingSearch.com once a placed in-service application was received. If this is still correct, please remove the criteria for the developer/management company to upload information. However, if the system is available for the developer/management company to upload information then development information should be uploaded, at the earliest, at the fifteen-month benchmark when a development is under construction. **Nothing changed in this section**

**Added- Developments will be subject to four (4) construction progress inspections during the construction phase (25%, 50%, 75%, and 100%). The 100% inspection must be completed and approval obtained from the Authority prior to allowing residents to occupy the units.**

They need to clarify that this is just for 9% developments. Not allowing a rolling lease up for bond developments would mean the bond development would most likely not lease up in the IRS required 12 month period if all units and buildings had to have a certificate of occupancy before allowing units to lease and tenants move in.

**Added- The Authority will not approve rent increases in excess of 5% annually. This needs to revert back to the prior language and afford the authority the opportunity to consider extenuating circumstances.**